



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

JUL 22 2004

Thomas M. Ariola, Jr.  
827 Oronoke Rd., Apt. 10  
Waterbury, Connecticut 06708-3940

RE: MUR 5453  
Thomas M. Ariola, Jr.

Dear Mr. Ariola:

On May 18, 2004, the Federal Election Commission ("the Commission") found that there is reason to believe you violated 2 U.S.C. §§ 441b(a), 441a(f), and 434(b)(3)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

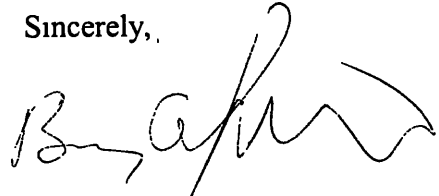
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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Christine C. Gallagher, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bradley A. Smith', written over a horizontal line.

Bradley A. Smith  
Chairman

Enclosures  
Factual and Legal Analysis  
Procedures  
Designation of Counsel Form

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**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Thomas M. Ariola, Jr.

MUR 5453

**I. GENERATION OF THE MATTER**

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2).<sup>1</sup> At issue is whether Thomas M. Ariola, Jr. is personally liable for failing to meet his legal obligations as a former deputy treasurer of the Giordano for U.S. Senate Committee ("the Committee") in connection with the Committee's receipt and deposit of apparent excessive individual contributions and apparent prohibited corporate contributions, as well as for failure to provide contributor information for a significant percentage of the contributions received from individuals during the 2000 election cycle.

**II. BACKGROUND**

**A. Excessive Individual Contributions**

Philip Giordano was a candidate for the office of United States Senator from Connecticut in the 2000 election.<sup>2</sup> A review of the Committee's disclosure reports shows that the Committee

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<sup>1</sup> All of the facts in this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-153, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended, ("the Act"), herein are as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA.

<sup>2</sup> According to Statements of Organization on file with the Commission, on February 8, 2000, James Paolino was named as treasurer of the Giordano Congressional Exploratory Committee. On March 17, 2000, Michael Blumenthal was named as treasurer of the Giordano for U.S. Senate Committee, the candidate's principal campaign committee. On July 15, 2000, Thomas M. Ariola, Jr. was named as deputy treasurer of the principal campaign committee. A subsequent letter from Mr. Paolino to the Commission explained that the 2000 July Quarterly Report marked the termination of the candidate's Exploratory Committee and the commencement of his principal campaign committee. By letter dated February 15, 2001, Mr. Paolino notified the Commission that Mr. Ariola was the new treasurer of the Committee. By letter dated July 31, 2001, but not filed with the Commission until August 2, 2002, (Footnote continues next page.)

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- 1 received, and has not refunded, reattributed or redesignated excessive individual contributions
- 2 totaling \$26,500 as follows<sup>3</sup>:

CONTRIBUTOR	CONTRIBUTION AMOUNT	DATE	ELECTION DESIGNATION	REPORT	EXCESSIVE AMOUNT
Allocco, Elizabeth	\$1,000	9/15/00	General	October Quarterly	
Allocco, Elizabeth <sup>4</sup>	\$1,000	9/15/00	General	October Quarterly	\$1,000
Capelletti, Joann	\$1,000	6/28/00	General	July Quarterly	
Capelletti, Joann	\$250	10/18/00	Not designated	30-Day Post-General	\$250
Decaro, Angelo	\$2,000	10/03/00	Not designated	30-Day Post-General	\$1,000
Longino, Timothy	\$1,800	10/30/00	Not designated	30-Day Post-General	\$800
Longino, Timothy	\$22,200	10/30/00	Not designated	30-Day Post-General	\$22,200
Paolino, James	\$1,000	5/25/00	General	July Quarterly	
Paolino, James	\$1,000	6/28/00	General	July Quarterly	\$1,000
Pinto, Paul	\$1,000	10/27/00	Not designated	30-Day Post-General	
Pinto, Paul	\$250	4/12/00	General	April Quarterly	\$250

Mr. Ariola stated that he was resigning as deputy treasurer. Mr. Ariola's counsel has communicated to the Commission that Mr. Ariola claims he was never the Committee's treasurer, and that his signature was signed to disclosure reports without his consent. However, the disclosure reports do appear to contain either Mr. Ariola's name and/or signature. Therefore, for purposes of this analysis, the Commission is proceeding on the presumption that Mr. Ariola signed the disclosure reports or that his name was entered thereon with his consent.

<sup>3</sup> These apparent excessive individual contributions appeared on the Committee's 2000 April, July and October Quarterly and 30-Day Post-General Reports. The Commission sent Requests for Additional Information ("RFAs") to the Committee on July 3, 2001 and July 17, 2001, and Second Notices on July 26 and August 9, 2001. In response, the Committee cured only one of the excessive individual contributions. That contribution is not listed here.

<sup>4</sup> The October Quarterly Report discloses a \$1,000 contribution from Elizabeth Allocco on September 15, 2000 and a \$2,000 contribution from Michael and Elizabeth Allocco on September 15, 2000. For purposes of this analysis, \$1,000 of the latter \$2,000 contribution is being attributed to Elizabeth Allocco. See 11 C.F.R. § 110.1(k)(3).

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Mr. Ariola signed, as deputy treasurer, the disclosure reports, which contained the  
aforesaid apparent excessive individual contributions.

B. Prohibited Corporate Contributions

The Committee received and deposited what appear to be seven corporate contributions  
totaling \$6,750 as follows<sup>5</sup>:

CORPORATION'S NAME	AMOUNT OF CONTRIBUTION	DATE
Diabes Brothers, Inc.	\$1,000	10/27/00
Diabes Brothers, Inc. II	\$1,000	10/27/00
DiBacco Plumbing & Heating, Inc.	\$500	10/7/00
En-Tech Corporation	\$2,500	10/14/00
Northeast Cosmetology, Inc.	\$500	10/1/00
R.P.L.	\$1,000	10/10/00
The Red Lion, Inc.	\$250	10/4/00

Pursuant to the available information, the Committee has not refunded any of the  
aforesaid corporate contributions. Mr. Ariola signed the 2000 October Quarterly Report and the  
30-Day Post-General Report, which contained the aforesaid apparent prohibited corporate  
contributions.

C. Failure To Provide Required Contributor Information

A review of the Committee's disclosure reports shows that the Committee failed to  
provide some or all of the required contributor information, including addresses, occupations,

<sup>5</sup> The Commission sent RFAs concerning the apparent prohibited corporate contributions on July 3, 2001 (referencing the 2000 October Quarterly Report) and July 17, 2001 (referencing the 2000 30-Day Post-General Report) and Second Notices on July 26, 2001 and August 9, 2001, respectively. The Committee did not respond.

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employers and dates, for a total of 763 of 887, or approximately 86%, of the total number of itemized contributions from individuals for certain reports filed in the 2000 election cycle. Beginning with the 2000 October Quarterly Report, the Committee failed to provide complete contributor information for a progressively increasing number of contributors. For example, the 2000 October Quarterly Report failed to provide complete contributor information for 124 of 217, or 57%, of the itemized individual contributions disclosed. The 2000 12-Day Pre-General Report failed to provide complete contributor information for 11 of 17, or 64%, of the itemized individual contributions disclosed. The 2000 30-Day Post General Report failed to provide complete contributor information for all 308 itemized contributions. Finally, the 2000 Year-End Report failed to provide complete contributor information for 320 of 345 of the itemized individual contributions disclosed. The missing information in these reports varied, and in some cases omitted all required information other than the purported donor's name and the amount of the contribution.

### III. ANALYSIS

The Act prohibits any person from making contributions "to any candidate and his authorized political committee with respect to any election for Federal office which, in the aggregate, exceeds \$1,000." 2 U.S.C. § 441a(a). A contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i). Political committees are prohibited from knowingly accepting excessive contributions. *See* 2 U.S.C. § 441a(f). Further, no officer or employee of a political committee shall knowingly accept a contribution for the benefit of a candidate in violation of any limitation imposed on contributions by the Act. *See id.*

The treasurer shall be responsible for ascertaining whether contributions received, when aggregated with other contributions from the same contributor, exceed the contribution

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1 limitations of 11 C.F.R. § 110.1. *See* 11 C.F.R. § 103.3(b). If a contribution presents a genuine  
2 issue as to whether it exceeds the contribution limits on its face or when aggregated with other  
3 contributions from the same individual, or if a treasurer later discovers that a contribution is  
4 illegal based on new evidence not available at the time of receipt or deposit, a treasurer must  
5 follow the procedures set forth at 11 C.F.R. § 103.3(b), which include either refunding the  
6 contribution to the contributor, or requesting either a redesignation or reattribution of the  
7 contribution from the contributor in accordance with 11 C.F.R. § 110.1 as appropriate. *See id.*

8 In place of a treasurer, former deputy treasurer Mr. Ariola signed the 2000 October  
9 Quarterly and 30-Day Post-General Reports which contained apparent excessive individual  
10 contributions. By signing the disclosure reports, Mr. Ariola was responsible for detecting the  
11 apparent illegalities contained therein. *See* 11 C.F.R. §§ 103.3(b), 102.7(a), 104.14(d), and  
12 110.1. There is no evidence that Mr. Ariola refunded, reattributed or redesignated any of these  
13 excessive individual contributions in accordance with 11 C.F.R. § 110.1. As such, he failed to  
14 fulfill his responsibilities under the Act and the Commission's regulations, and is personally  
15 liable for such failure. *See id.*

16 Pursuant to 2 U.S.C. § 441b(a), it is unlawful for corporations to make a contribution in  
17 connection with any election for Federal office, "or for any candidate, political committee, or  
18 other person knowingly to accept or receive any contribution prohibited by this section." *Id.*

19 A treasurer is responsible for examining all contributions received for evidence of  
20 illegality. 11 C.F.R. § 103.3(b). If a contribution presents a genuine issue as to whether it was  
21 made from a prohibited source, or if a treasurer later discovers that a contribution is illegal based  
22 on new evidence not available at the time of receipt or deposit, a treasurer must follow the  
23 procedures set forth at 11 C.F.R. § 103.3(b)(4) and (5), which include refunding the contribution  
24 to the contributor.

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1       Former deputy treasurer Mr. Ariola signed the disclosure reports which contained the  
2       aforesaid prohibited corporate contributions. By signing these reports in place of a treasurer he  
3       was responsible for detecting the apparent prohibited corporate contributions contained in said  
4       reports. *See id*; *see also* 11 C.F.R. §§ 102.7 and 104.14(d). There is no evidence that Mr. Ariola  
5       refunded the apparent prohibited corporate contributions in accordance with the procedures set  
6       forth in 11 C.F.R. § 103.3(b)(4) and (5). As such, he failed to fulfill his responsibilities under the  
7       Act and the Commission's regulations, and is personally liable for such failure. *See id*.

8       The treasurer of a political committee shall keep an account of the name and address of  
9       any person who makes any contribution in excess of \$50, and the identification of any person  
10      who makes a contribution, or contributions aggregating more than \$200 during a calendar year.  
11      *See* 2 U.S.C. §§ 432(c)(2), (c)(3); *see also* 11 C.F.R. § 102.9(a). He is required to disclose this  
12      information in the committee's disclosure reports. *See* 2 U.S.C. § 434(b)(3)(A).

13      Former deputy treasurer Mr. Ariola signed the disclosure reports that lacked the required  
14      contributor information. By signing said reports in place of the treasurer he was responsible for  
15      providing the required contributor information. *See* 2 U.S.C. §§ 432(c)(2), (c)(3) and (i) and  
16      434(b)(3)(A); *see also* 11 C.F.R. §§ 102.7, 104.14(d), 102.9(a) and (d). By reason of his failure  
17      to provide the required contributor information he failed to fulfill his responsibilities under the  
18      Act and the Commission's regulations, and is personally liable for such failure. *See id*.

19      Therefore, there is reason to believe former deputy treasurer Thomas M. Ariola, Jr.  
20      violated 2 U.S.C. §§ 441a(f), 441b(a), and 434(b)(3)(A) in his personal capacity.

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